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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TERRI ALVES, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

REALTY WEALTH PROS, LLC,
D/B/A ALLTHELEADS.COM;
THOMAS OWNBY, JIM SULLIVAN,
TIM YANDELL, and CHAD
CORBETT; and DOES 1-10, inclusive,
and each of them,

Defendants.

) Case No.

) **CLASS ACTION**

) **FIRST AMENDED COMPLAINT
FOR VIOLATIONS OF:**

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]

) **DEMAND FOR JURY TRIAL**

Plaintiff, TERRI ALVES (“Plaintiff”), individually and on behalf of all
others similarly situated, alleges the following upon information and belief based
upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of REALTY WEALTH PROS, LLC, D/B/A ALLTHELEADS.COM (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

JURISDICTION & VENUE

2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a resident of California, seeks relief on behalf of a Class, which will result in at least one class member belonging to a different state than that of Defendants, a company organized and with its principal place of business in the State of Florida. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which, when aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

3. Venue is proper in the United States District Court for the Central District of California pursuant to *18 U.S.C. 1391(b)* and *18 U.S.C. § 1441(a)* because the Defendants do business within the state of California and the county of San Luis Obispo.

PARTIES

4. Plaintiff, TERRI ALVES (“Plaintiff”), is a natural person residing in San Luis Obispo, California and is a “person” as defined by 47 U.S.C. § 153 (39).

5. Defendant, REALTY WEALTH PROS, LLC, D/B/A ALLTHELEADS.COM (“Defendant Realty”), is company engaged in the

1 business of collecting and selling real estate business leads, and is a “person” as
2 defined by 47 U.S.C. § 153 (39).

3 6. Defendants, Jeff Call Thomas Ownby, Jim Sullivan, Tim Yandell, and
4 Chad Corbett (“Defendants Ownby, Sullivan, Yandell, and Corbett”) are
5 individuals who at all relevant times are the joint owners of Defendant REALTY
6 WEALTH PROS, LLC, D/B/A ALLTHELEADS.COM. As executive partners of
7 Defendant Realty, Defendants Ownby, Sullivan, Yandell, and Corbett were
8 responsible for the overall success of the company. Defendants Ownby, Sullivan,
9 Yandell, and Corbett materially participated in selling telephone information by
10 occupying positions of critical importance to Defendant Realty’s business; as
11 managing executive partners of Defendant Realty, they exercised control over the
12 affairs of a real estate leads generator business; and they were regularly engaged,
13 both indirectly than directly, in the sale of real estate leads through their
14 involvement in Defendant Realty’s affairs. Defendants Ownby, Sullivan, Yandell,
15 and Corbett continued to play a key role in maintaining and expanding Defendant
16 Realty’s activities throughout the time in question.
17

18 7. The above named Defendants, and their subsidiaries and agents, are
19 collectively referred to as “Defendants.” The true names and capacities of the
20 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
21 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
22 names. Each of the Defendants designated herein as a DOE is legally responsible
23 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
24 Complaint to reflect the true names and capacities of the DOE Defendants when
25 such identities become known.

26 8. Plaintiff is informed and believes that at all relevant times, each and
27 every Defendant was acting as an agent and/or employee of each of the other
28 Defendant and was acting within the course and scope of said agency and/or

1 employment with the full knowledge and consent of each of the other Defendants.
 2 Plaintiff is informed and believes that each of the acts and/or omissions complained
 3 of herein was made known to, and ratified by, each of the other Defendants.

4 **FACTUAL ALLEGATIONS**

5 9. Beginning in or around January of 2016, Defendants contacted
 6 Plaintiff on her cellular telephone, ending in -7441, in an attempt to solicit their
 7 services to Plaintiff.

8 10. Defendants used an “automatic telephone dialing system”, as defined
 9 by *47 U.S.C. § 227(a)(1)* to place its daily calls to Plaintiff seeking to offer their
 10 services to Plaintiff.

11 11. Defendants’ calls constituted calls that were not for emergency
 12 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

13 12. Defendants’ calls were placed to telephone number assigned to a
 14 cellular telephone service for which Plaintiff incurs a charge for incoming calls
 15 pursuant to *47 U.S.C. § 227(b)(1)*. Moreover, Plaintiff’s phone number has been
 16 registered in the do-not-call list since December 2, 2003.

17 13. Defendants never received Plaintiff’s “prior express consent” to
 18 receive calls using an automatic telephone dialing system or an artificial or
 19 prerecorded voice on her cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.

20 **CLASS ALLEGATIONS**

21 14. Plaintiff brings this action on behalf of herself and all others similarly
 22 situated, as a member of the proposed class (hereafter “The Class”) defined as
 23 follows:

24 All persons within the United States who received any
 25 collection telephone calls from Defendant to said
 26 person’s cellular telephone made through the use of any
 27 automatic telephone dialing system and such person had
 28 not previously consented to receiving such calls within
 the four years prior to the filing of this Complaint

1
2 15. Plaintiff represents, and is a member of, The Class, consisting of All
3 persons within the United States who received any collection telephone calls from
4 Defendants to said person's cellular telephone made through the use of any
5 automatic telephone dialing system and such person had not previously not
6 provided their cellular telephone number to Defendant within the four years prior
7 to the filing of this Complaint.

8 16. Defendants, their employees and agents are excluded from The Class.
9 Plaintiff does not know the number of members in The Class, but believes the Class
10 members number in the thousands, if not more. Thus, this matter should be
11 certified as a Class Action to assist in the expeditious litigation of the matter.

12 17. The Class is so numerous that the individual joinder of all of its
13 members is impractical. While the exact number and identities of The Class
14 members are unknown to Plaintiff at this time and can only be ascertained through
15 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
16 The Class includes thousands of members. Plaintiff alleges that The Class
17 members may be ascertained by the records maintained by Defendants.

18 18. Plaintiff and members of The Class were harmed by the acts of
19 Defendants in at least the following ways: Defendants illegally contacted Plaintiff
20 and Class members via their cellular telephones thereby causing Plaintiff and Class
21 members to incur certain charges or reduced telephone time for which Plaintiff and
22 Class members had previously paid by having to retrieve or administer messages
23 left by Defendants during those illegal calls, and invading the privacy of said
24 Plaintiff and Class members.

25 19. Common questions of fact and law exist as to all members of The
26 Class which predominate over any questions affecting only individual members of
27 The Class. These common legal and factual questions, which do not vary between
28 Class members, and which may be determined without reference to the individual

1 circumstances of any Class members, include, but are not limited to, the following:

- 2 a. Whether, within the four years prior to the filing of this
3 Complaint, Defendants made any collection call (other than a
4 call made for emergency purposes or made with the prior
5 express consent of the called party) to a Class member using
6 any automatic telephone dialing system to any telephone
7 number assigned to a cellular telephone service;
- 8 b. Whether Plaintiff and the Class members were damages
9 thereby, and the extent of damages for such violation; and
- 10 c. Whether Defendants should be enjoined from engaging in such
11 conduct in the future.

12 20. As a person that received numerous collection calls from Defendant
13 using an automatic telephone dialing system, without Plaintiff's prior express
14 consent, Plaintiff is asserting claims that are typical of The Class.

15 21. Plaintiff will fairly and adequately protect the interests of the members
16 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
17 class actions.

18 22. A class action is superior to other available methods of fair and
19 efficient adjudication of this controversy, since individual litigation of the claims
20 of all Class members is impracticable. Even if every Class member could afford
21 individual litigation, the court system could not. It would be unduly burdensome
22 to the courts in which individual litigation of numerous issues would proceed.
23 Individualized litigation would also present the potential for varying, inconsistent,
24 or contradictory judgments and would magnify the delay and expense to all parties
25 and to the court system resulting from multiple trials of the same complex factual
26 issues. By contrast, the conduct of this action as a class action presents fewer
27 management difficulties, conserves the resources of the parties and of the court
28 system, and protects the rights of each Class member.

1 23. The prosecution of separate actions by individual Class members
2 would create a risk of adjudications with respect to them that would, as a practical
3 matter, be dispositive of the interests of the other Class members not parties to such
4 adjudications or that would substantially impair or impede the ability of such non-
5 party Class members to protect their interests.

6 24. Defendants have acted or refused to act in respects generally
7 applicable to The Class, thereby making appropriate final and injunctive relief with
8 regard to the members of the California Class as a whole.

9 **FIRST CAUSE OF ACTION**

10 **Negligent Violations of the Telephone Consumer Protection Act**

11 **47 U.S.C. §227 et seq.**

12 25. Plaintiff repeats and incorporates by reference into this cause of
13 action the allegations set forth above at Paragraphs 1-24.

14 26. The foregoing acts and omissions of Defendant constitute numerous
15 and multiple negligent violations of the TCPA, including but not limited to each
16 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

17 27. As a result of Defendants' negligent violations of *47 U.S.C. § 227 et*
18 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
19 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

20 28. Plaintiff and the Class members are also entitled to and seek
21 injunctive relief prohibiting such conduct in the future.

22
23 **SECOND CAUSE OF ACTION**

24 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
25 **Act**

26 **47 U.S.C. §227 et seq.**

27 (Against All Defendants)

28 29. Plaintiff repeats and incorporates by reference into this cause of

1 action the allegations set forth above at Paragraphs 1-28.

2 30. The foregoing acts and omissions of Defendants constitute numerous
3 and multiple knowing and/or willful violations of the TCPA, including but not
4 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*
5 *seq.*

6 31. As a result of Defendants' knowing and/or willful violations of *47*
7 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of
8 \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C.*
9 *§ 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

10 32. Plaintiff and the Class members are also entitled to and seek
11 injunctive relief prohibiting such conduct in the future.

12
13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

15
16 **FIRST CAUSE OF ACTION**

17 **Negligent Violations of the Telephone Consumer Protection Act**

18 ***47 U.S.C. §227 et seq.***

- 19 • As a result of Defendants' negligent violations of *47 U.S.C. §*
20 *227(b)(1)*, Plaintiff and the Class members are entitled to and request
21 \$500 in statutory damages, for each and every violation, pursuant to
22 *47 U.S.C. § 227(b)(3)(B)*.
23 • Any and all other relief that the Court deems just and proper.

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SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendants' willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 4th Day of March 2016.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff